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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/565,117	07/15/2003	Jeffery Edwards Kowalski, Jr.	A71758MSS463035780

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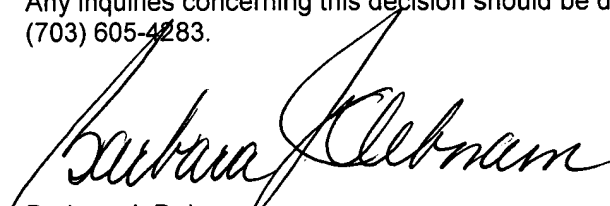
RESPONSE TO DECLARATION OF EXPRESS ABANDONMENT
The declaration of express abandonment is recognized

This is in response to the declaration of express abandonment and request for refund of search fee and examination fee filed on August 11, 2006.

The declaration of express abandonment is recognized.

The request for refund of search fee and examination fee, however, is dismissed. The Consolidated Appropriations Act, 2005 does not provide any provisions for refund of any properly paid examination fee. The final rule that implements the search fee provisions of the Consolidated Appropriations Act, 2005, does not apply to international applications. See *Changes To Implement the Patent Search Fee Refund Provisions of the Consolidated Appropriations Act, 2005*, 71 Fed. Reg. 12281 (March 21, 2006), 1305 Off. Gaz. Pat. Office 19 (April 4, 2006)(final rule). Specifically, this final rule only apply to applications filed under 35 U.S.C. 111(a). The above-identified application is not an application filed under 35 U.S.C. 111(a). Furthermore, when an applicant takes an action "by mistake" (e.g., files an application), the submission of fees required to take that action (e.g., a filing fee submitted with such application) is not a "fee paid by mistake" within the meaning of 35 U.S.C. 42(d). See MPEP § 607.02. 37 CFR 1.26 also provides that "[a] change of purpose after the payment of a fee, such as when a party desires to withdraw a patent filing for which the fee was paid, including an application,...will not entitle a party to a refund of such fee."

Any inquiries concerning this decision should be directed to the Pre-Grant Publication Division at (703) 605-4283.


Barbara J. Debnam
Pre-Grant Publication Division